



## **Durham Police and Crime Panel**

**16 October 2020**

## **Review of Complaints Procedure**

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### **Report of Helen Lynch, Monitoring Officer and Clerk to the Police and Crime Panel**

#### **1 Purpose of the Report**

- 1.1 The purpose of the report is for the Panel to consider an update to the procedure for handling complaints relating to the Police, Crime and Victims Commissioner (PCVC) or the Deputy Police, Crime and Victims Commissioner (where appointed). This report also recommends that the Panel receive a update report from the Clerk to the Panel at each regular meeting on complaints relating to the PCVC or Deputy PCVC.

#### **2 Executive Summary**

- 2.1 In July 2019 the Local Government Association (LGA) issued guidance for the handling of complaints received by the Panel.
- 2.2 The LGA guidance outlined areas of good practice to ensure that the process was easy to understand with clear timescales on the handling of complaints made to the Panel. This report makes recommendations to the Panel to implement those good practice recommendations in an update to the complaint procedure for handling complaints relating to the PCVC or Deputy PCVC.

#### **3 Recommendations**

- 3.1 The Panel is asked to
- i. comment on the draft update to the complaint procedure.
  - ii. approve the draft complaint procedure to be implemented and applied to any complaint formally received after 16 October 2020.
  - iii. agree to accept a report from the Clerk to the Panel on complaints received at each regular meeting including those which have not been referred to the Panel.

## **4 Background**

- 4.1 The Police and Reform and Social Responsibility Act 2011 sets out the role and responsibility of Panels, this includes handling complaints relating to the Police and Crime Commissioner and their Deputy where appointed.
- 4.2 The Police and Crime Panel on 30 November 2012 adopted procedures for dealing with complaints and conduct matters about the PCVC (“the Procedure Rules”), these Procedure Rules are made in accordance with the provisions of the Elected Local Policing Bodies (Complaints & Misconduct) Regulations 2012 (“the Regulations”). The current procedure rules are shown at Appendix 2 which are based on the model procedure rules adopted by many local authorities. Since the implementation there have been no substantive changes to the procedure rules, the changes have been only to update the officer names.
- 4.3 The Panel have two roles in relation to complaints handling which are:
- scrutinising and supporting commissioners on their oversight of force complaints and the handling of a chief constable complaint, following reforms to the police complaints and disciplinary system, and
  - a direct role in dealing with non-criminal complaints about the commissioner, one of their special functions.

## **5 Changes to the Procedure**

- 5.1 The Local Government Association (LGA) issued guidance for Police and Crime Panels which included complaints handling dated 11 July 2019. An extract of the relevant section is reproduced at Appendix 3.
- 5.2 Whilst the existing procedure remains legally compliant the recommendations of the LGA set out improvements in the arrangements for handling complaints.
- 5.3 It is proposed that the Durham Procedure Rules be updated to reflect the LGA good practice guidance and to ensure that the document is accessible to all. The suggested changes are listed as follows:
- a. To update post holder roles throughout and ensure that this is consistent in its use.
  - b. To make the document accessible.
  - c. To use clear and plain language where possible and avoid legalistic language.
  - d. To include a process map to outline the process.
  - e. To remove any typographical errors and formatting issues.

- 5.4 Members of the Panel are also invited to offer comment on the proposed revised procedure.
- 5.5 Members of the Panel are invited to consider the vexatious and habitual complaints which appears at Annex 2 of the Procedure and in particular Schedule A 9) which reads:  
Where complainants:  
“9) are known to have recorded meetings or face to face/telephone conversations without prior knowledge and consent by the parties involved.”
- 5.6 A representation has been made that this is a lawful activity and should be removed from the criteria for considering a complaint to be vexatious.
- 5.7 It is not uncommon for authorities to have policies and procedures in place in relation to vexatious complainants. In the application of this procedure for the treatment of vexatious and habitual complaints, complainants do have a right to respond or of appeal. Paragraph 2.2 of Annex 2 sets out that when the Monitoring Officer (to the Panel) is considering implementing the policy, the Monitoring Officer is required to give a complainant prior notification of its possible implementation. There is also a requirement for the Monitoring Officer to seek agreement from the Chair or Vice-Chair of the Panel to treat a complainant as vexatious. In accordance with paragraph 19 of the Procedure, if a complainant is unhappy about the way in which their complaint has been handled (which would include a determination that it is vexatious) they can refer it to the Local Government Ombudsman.

## **6 Complaints Generally**

- 6.1 In both the existing procedure rules and the proposed update there is provision for the complaint in the first instance to be considered by the Panel.
- 6.2 The Panel have delegated responsibility to the Monitoring Officer to the Police and Crime Victims Commissioners Office for the initial receipt of complaints, and referral to the Panel, if there appears to be any substance in it. There may be instances where a complaint is not presented to the Panel such as withdrawn complaints or those which are outside of the policy to be considered.
- 6.3 In order to promote transparency and ensure effective scrutiny it is recommended that the Panel receives report at each regular meeting on

complaints received relating to the PCVC including those which have not been presented to the Panel.

### **Background Papers**

None

### **Further Reading**

<https://www.local.gov.uk/sites/default/files/documents/good-practice-police-and--50a.pdf>

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## **Appendix 1**

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### **Legal Implications**

The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012 set out the functions of police and crime panels in relation to the handling of complaints concerning the conduct of police and crime commissioners, and provide for local arrangements to be made in order to resolve complaints.

### **Finance**

None specific for this report.

### **Consultation**

None specific for this report. .

### **Equality and Diversity / Public Sector Equality Duty**

None specific for this report.

### **Climate Change**

None specific for this report.

### **Human Rights**

None specific for this report.

### **Crime and Disorder**

None specific for this report.

### **Staffing**

None specific for this report.

### **Accommodation**

None specific for this report.

### **Risk**

None specific for this report.

### **Procurement**

None specific for this report.